

**Before the  
Federal Communications Commission  
Washington, DC**

|                                         |   |                      |
|-----------------------------------------|---|----------------------|
| In the Matter of                        | ) |                      |
|                                         | ) |                      |
| Request for Review of the Decision of   | ) |                      |
| the Universal Service Administrator     | ) |                      |
| and Waiver by                           | ) |                      |
|                                         | ) |                      |
| Hampstead Hill Academy                  | ) | File Nos. SLD-635081 |
|                                         | ) |                      |
| Baltimore, MD                           | ) |                      |
|                                         | ) |                      |
| Schools and Libraries Universal Service | ) | CC Docket No. 02-6   |
| Support Mechanism                       | ) |                      |

**REQUEST FOR REVIEW AND WAIVER**

Hampstead Hill Academy (“HHA”) requests that the Commission review and reverse the Decision of the Administrator (“USAC”) in the above-captioned matter<sup>1</sup> and direct USAC to terminate its Demand Payment proceeding against HHA. Alternatively, ASA requests that the Commission reach the same result by waiving its rules, as strict compliance would not be in the public interest in these particular circumstances.

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**Important Administrative/Procedural Matters**

(1) We received USAC’s decision in an envelope addressed to HHA, but the decision itself is addressed to the Service Provider, Friedman Computer Solutions, Inc. HHA’s name appears nowhere in USAC’s decision. To confuse matters further, USAC’s decision says, “Your Correspondence Received: September 19, 2017,” but HHA filed its Letter of Appeal via email on September 8, 2017, and confirmed its receipt with a member of USAC’s client service team that same day. Therefore, while we assume that

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<sup>1</sup> Exhibit 1, *Administrator’s Decision on Appeal—Funding Year 2008-2009* dated December 21, 2017.

USAC meant this decision for HHA, we cannot be one hundred percent positive of that because there has never been any official notice of HHA's appeal being denied, certainly nothing clear and unequivocal. Consequently, we do not know whether this appeal is necessary or even appropriate at this time.

(2) Even though HHA's appeal covered the following four FRNs: Nos. 1902674, 1902433, 1898266 (Form 471 Nos. 693282 and 691971), and 1756678 (Form 471 No. 635081), USAC's decision addressed only one of the four—namely, **FRN No. 1756678**. We have not received a decision from USAC in connection with any of the other three FRNs. Therefore, just in case USAC claims that it sent us one and, in it, denied our appeal, to protect our right of appeal we are including all four of the FRNs in this Request for Review and Waiver.

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Assuming that USAC intended to decide our appeal in the decision it sent to us, then its inability to address its decision to us, rather than to our former service provider, is extraordinarily ironic, because we never received the Notice of Improperly Disbursed Funds Recovery Letter that USAC claims it sent to us. That was the threshold issue in our appeal.

USAC dismissed our appeal as untimely because of our failure to file it within 60 days of the date on its Notice of Improperly Disbursed Recovery Letter. However, as we explained to USAC in our appeal, we never received this letter from USAC. We knew absolutely nothing about it until we received USAC's Demand Payment Letter -- which we did appeal within 60 days. In these circumstances, we argued, USAC should treat our appeal as timely filed, but USAC rejected our request and dismissed it as untimely. Consequently, USAC never reached the merits of our appeal.

In our Letter of Appeal, we set forth all of the relevant facts and issues, discussed them in detail, and explained to USAC why HHA did not violate program rules as USAC had alleged. Accordingly, we direct the Commission's attention to our Letter of Appeal, which we have attached as Exhibit 2.

FRN 1756678, the only FRN that may actually be in issue here, involves funding for a router that could not be located during the audit. For convenience, we have copied

the relevant portion of our Letter of Appeal below:

During the audit, OIG discovered that an E-rate supported Cisco router was missing. Up until then, HHA had been unaware of that fact.

HHA explained to OIG that the only possible explanation for the router's disappearance was that the public school district's IT staff removed it for some reason while working on the school's network, replaced it with a different router, and did not inform anyone at HHA. That is why there was no record of a router gone missing. And of course it was not obvious to anyone at HHA that the replacement box was, in fact, a replacement.

Since HHA did not purposely let go of its E-rate-supported router, was not complicit in letting it go, and, moreover, had no way of knowing that a swap had even occurred, HHA cannot be held responsible for the router's disappearance.

Violating this rule requires intent – that is, selling or transferring the E-rate supported equipment for value or intentionally moving it, with no legitimate justification, from where it is supposed to be. Take, for example, the case of a piece of E-rate equipment that gets destroyed in a flood or is stolen. In neither case is the applicant guilty of a rule violation. That is because the applicant did not dispose of the equipment intentionally.

Here, HHA did not dispose of the equipment intentionally either. The only reason it disappeared was because a third party must have taken it. We are not alleging that the disappearance was due to theft, but the circumstances are certainly similar to theft and the end result was exactly the same. As in the case of theft, HHA was left without its equipment because someone took it and it had no way of getting it back. Furthermore, since the person who took HHA's router, without HHA's knowledge, replaced it with a similar looking router, without HHA's knowledge, it is not surprising that its disappearance would not be noticed. Which is precisely why HHA had nothing in its records about this particular router not being where it was supposed to be. Therefore, HHA did not violate FCC rules by failing to record its disappearance.

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For all of the reasons set forth and discussed in our Letter of Appeal and above, we respectfully request that the Commission (1) reverse USAC's decision on appeal; (2) reverse all of USAC's adverse decisions in the underlying matter in connection with our funding; and (3) direct USAC to terminate its Demand Payment proceedings against HHA or at least to redirect it, as program rules require, toward the responsible party, which, in this case is unquestionably the service provider. Alternatively, we request that the Commission waive its 60-day appeal rule and any other rules that may need to be waived to enable the Commission to reach this same result.

Respectfully submitted,

HAMPSTEAD HILL ACADEMY

By: */s/ Matt Hornbeck*

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Matt Hornbeck  
Principal  
Hampstead Hill Elementary School  
500 S. Linwood Ave.  
Baltimore, MD 21224  
[JMHornbeck@bcps.k12.md.us](mailto:JMHornbeck@bcps.k12.md.us)  
410-396-9146

By: */s/ Laura Doherty*

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Laura Doherty  
President  
Baltimore Curriculum Project

February 16, 2018